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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOAN M. GATELY,
Plaintiff,
v.

Case No.:

COMPLAINT FOR PERSONAL INJURIES

[AMOUNT DEMANDED EXCEEDS \$75,000]

UNITED PARCEL SERVICE, INC.,
an Ohio Corporation, and
MARIA REGINA P. THUNDER,
Defendants.

Plaintiff, JOAN M. GATELY, alleges as follows:

DEMAND FOR JURY TRIAL

1. Plaintiff Joan M. Gately hereby demands a trial by jury.

JURISDICTION AND VENUE

2. Joan M. Gately is a citizen of California who resides in the County of Plumas, State of California.

3. Defendant United Parcel Service, Inc., ("Defendant") is a shipping business incorporated under the laws of the State of Delaware, with a principal place of business in Atlanta, Georgia. Defendant Maria Regina P. Thunder was the driver of the Defendant United Parcel Service, Inc.'s truck tractor/trailer and resides in the County of Washoe, State of Nevada.

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4. The incident upon which this action is predicated (the "Collision") arose in the County of Plumas, State of California. Plaintiff has sustained personal injuries and property damages in excess of \$75,000.

5. This Court has jurisdiction over the subject matter presented by this Complaint because there exists diversity of citizenship pursuant to 28 U.S.C. § 1332(a)(1) and § 1332(c)(1), and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

6. The Court is the proper venue for this action pursuant to 28 U.S.C. § 1391(b)(2) because the events and omissions that gave rise to this action occurred with the territory subject to the jurisdiction of the United State District Court for the Eastern District of California.

CHARGING ALLEGATIONS

7. State Route 70 is a state highway in the United States of America, State of California ("SR-70"). The section of SR-70 near the mile post marker 70 PLU 34.85 KP 56.08, near the Collision is an east-west, two lane asphalt highway. SR-70 travels through the rugged and mountainous Plumas National Forest alongside Spanish Creek within an unincorporated area of Plumas County. The roadway is in a sharp right-hand curve for eastbound traffic and left-hand curve for westbound traffic. There is one westbound lane and one eastbound lane separated by solid double yellow lines with recessed reflectors. The westbound traffic lane is bordered by a solid white edge line, a narrow asphalt shoulder, and then a wide dirt shoulder. The eastbound lane is bordered by a solid white edge line, a narrow asphalt shoulder, narrow dirt shoulder, and then a metal guardrail that protects traffic from a steep descending mountainside leading to Spanish Creek.

8. The posted speed limit in this area is 55 miles per hour.

9. On December 16, 2020, Defendant Maria Regina P. Thunder was driving a 2019 Kenworth truck tractor pulling a 2004 brown Stoughton Box trailer eastbound on SR 70 near mile post marker 70 PLU 34.85 KP 56.08. A red Peterbilt 379 truck tractor pulling a 1990 red Utility flatbed trailer loaded with lumber and another 1990 red Utility flatbed trailer loaded with lumber heading eastbound on SR-70 directly behind Defendant.

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10. Plaintiff was driving westbound on SR-70 approaching Quarry Road.

11. Defendant was approaching the sharp right-hand curvature in the roadway at an unsafe speed. Defendant forcibly applied her brakes causing the rear tires of the rear trailer to lock up. The trailer left the eastbound lane and entered the westbound lane.

12. Plaintiff saw the trailer entering her lane and began moving over to the right side of the westbound lane. The left rear corner of Defendant's rear trailer struck the left rear door and left quarter-panel of Plaintiff's vehicle redirecting Plaintiff's vehicle into the westbound lane of SR-70 and then impacted the red Peterbilt 379 truck tractor head-on.

13. The weather at the time of the collision was foggy and cold with calm winds. The fog had made the roadway wet, but it was not so thick as to create any limited visibility in the area.

14. Defendant Maria Regina P. Thunder caused the Collision by driving too fast for conditions and unable to maintain control of the combination of vehicles while entering a sharp right-hand curve in the roadway causing Defendant to apply the vehicle's brakes which resulted in the loss of control of the rear trailer. The rear trailer entered a locked wheel skid and slid into the opposite lane striking Plaintiff.

15. As a direct, legal and proximate result of the negligence of Defendant Maria Regina P. Thunder, acting or failing to act by and through its employees and/or agent, Plaintiff was hurt and injured in her health, strength and activity, sustaining injury to her body and shock and injury to her nervous system and person. These injuries have causes, and continue to cause, Plaintiff great mental, physical and nervous pain and suffering. Plaintiff is informed and believes and thereon alleges that said injuries will result in some permanent disability, all to Plaintiff's general damages in an exact amount to be proven at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Joan M. Gately prays for judgment against Defendant United Parcel Service, Inc, and Maria Regina P. Thunder as follows:

1. All special damages in an amount according to proof;
2. General damages in an amount according to proof;

3. All prejudgment interest according to proof;
4. All costs of suit incurred herein; and
5. Such other and further relief as this Court may deem just and proper.

DATED:

4/6/21

DREYER BABICH BUCCOLA WOOD CAMPORA, LLP

By: 

HANK G. GREENBLATT